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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,712	12/31/2003	Alan P. Andrews	077411.0117	9215
28763	7590	10/05/2006	EXAMINER	
BAKER BOTTS, LLP 30 ROCKEFELLER PLAZA NEW YORK, NY 10112-4498			JOHNSON, JERROLD D	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/749,712	Applicant(s) ANDREWS ET AL.	
	Examiner Jerrold Johnson	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 1-13 and 19-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 14-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

This application contains claims 1-13 and 19-36 drawn to an invention nonelected with traverse. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Warburton US 3,735,917.

Re claim 14, Warburton discloses a two-way locking mechanism for a container comprising: a locking flap having a plurality of buttons 22 and an inner closure mechanism containing an inwardly recessed pocket;

a lid 2 having a plurality of closing apertures 23 adapted to receive the plurality of buttons, and further having an outer closure mechanism adapted to be received by the inner closure mechanism,

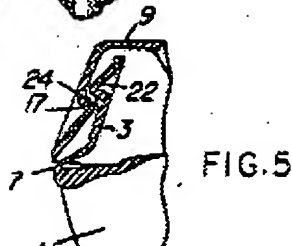
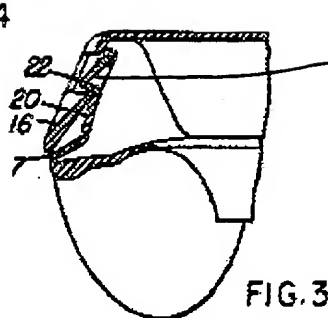
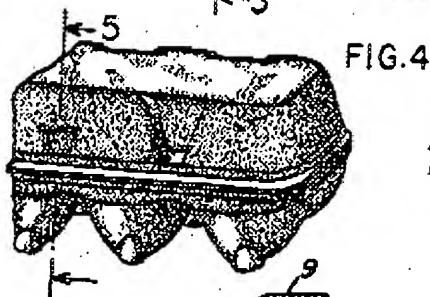
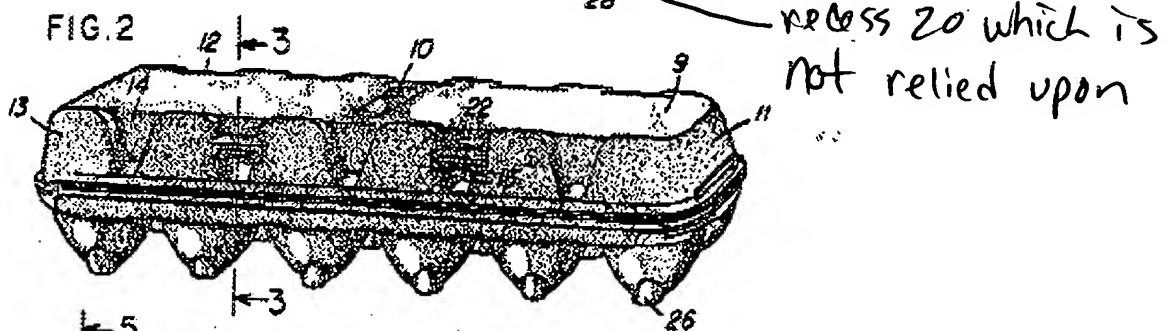
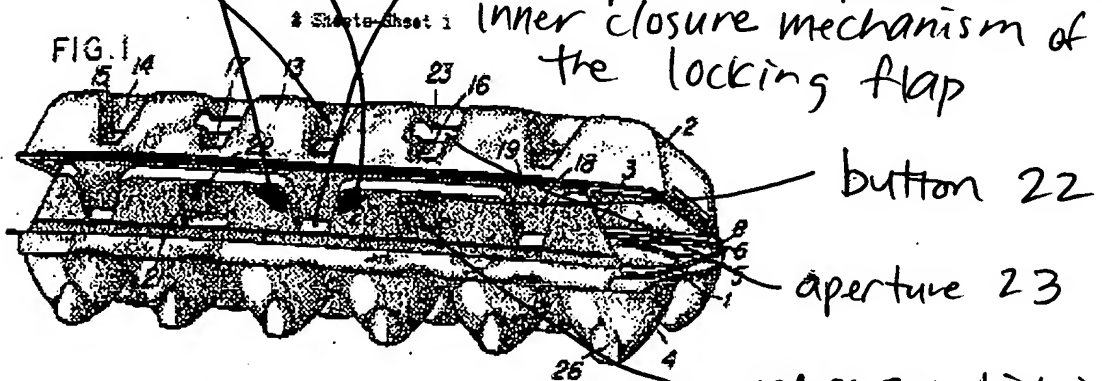
wherein the plurality of buttons extend in a first direction and the outer closure mechanism extends in a second direction opposite the buttons, when the locking mechanism is in a locked position.

With respect to Applicants arguments, the arguments are curiously directed to the orientation of the recess surface 20, and not to the orientation to the latching bar 22, which the Examiner has identified as meeting the limitation of the button. The Applicant is directed to Fig. 3 of Warburton shown on the next page.

inwardly extending member of the outer closure mechanism of the lid

outwardly extending members of the inner closure mechanism of the locking flap

inwardly recessed pocket of the inner closure mechanism of the locking flap



INVENTOR.
Richard T. Worburton.

In this figure it is clear that the latching bars 22 (the button) disposed on the locking flap extend outwardly so as to extend into closing apertures 23 of the lid allowing the detent edge 17 to engage the latching bar 22.

And, as the latching bar 22 (the button) extends outwardly as is claimed, and as inwardly extending member of the outer closure mechanism of the lid is both received in the inwardly recessed pocket of the inner closure mechanism of the locking flap and as it extends inwardly, i.e. opposite the direction of the outwardly extending latching bar 22 (buttons), the claim is anticipated by Warburton. See Fig. 6.

Re claim 15, the inner closure mechanism further contains an outwardly extending member located above the inwardly recessed pocket. Note that the claim does not set forth that the outwardly extending member is immediately above the inwardly recessed pocket. Only a vertical relationship is set forth in the claim.

Re claim 16, the outwardly extending member of the locking flap and the inwardly extending member of the lid have reciprocally projecting feet.

It is recognized that no structure has been set forth with respect to the claimed "feet." Accordingly, it is submitted that the reciprocally projecting overall structures of outwardly extending member of the locking flap and the inwardly extending member of the lid of Warburton comprise "feet."

Claim Rejections - 35 USC § 103

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Warburton in view of Hartman US 3,259,294.

Warburton does not disclose that the buttons are provided with feet to assist in securing the container in its closed position.

Hartman discloses feet 40 that assist in securing the container in its closed position.

Accordingly, it would have been obvious to one of ordinary skill in the art to provide feet as taught by Hartman so as to reinforce the buttons, thus assisting in securing the container in its closed position.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Warburton in view of Artz US 3,567,107.

Warbuton does not disclose at least one nub.

Artz discloses nubs 19 that apply an outward tension to the locking flap when the container is closed.

Accordingly, it would have been obvious to one of ordinary skill in the art to provide nubs as taught by Artz so as to assist move the locking flap out of the way when eggs are removed from the container.

Response to Arguments

Only claim 14 was argued. The response to those argument is in the body of the rejection of that claim.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerrold Johnson whose telephone number is 571-272-7141. The examiner can normally be reached on 9:30 to 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3728

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JBJ



Mickey Yu
Supervisory Patent Examiner
Group 37C0